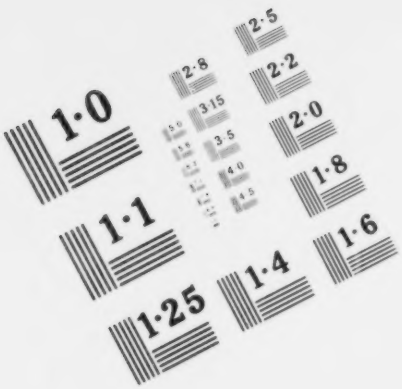

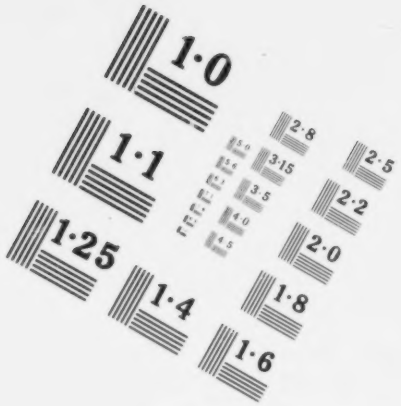

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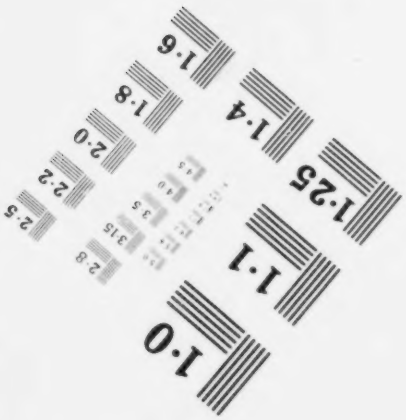

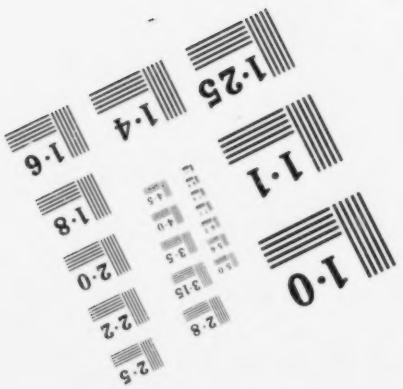

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All About OSHA

U.S. Department of Labor
Occupational Safety and Health Administration

1991 (Revised)
OSHA 2056

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All About OSHA

U.S. Department of Labor
Lynn Martin, Secretary

Occupational Safety and Health Administration
Gerard F. Scannell, Assistant Secretary

1991 (Revised)
OSHA 2056

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Need for Legislation

More than 90 million Americans spend their days on the job. They are our most valuable national resource. Yet, until 1970, no uniform and comprehensive provisions existed for their protection against workplace safety and health hazards.

In 1970, the Congress considered annual figures such as these:

- Job-related accidents accounted for more than 14,000 worker deaths.
- Nearly 2 1/2 million workers were disabled.
- Ten times as many person-days were lost from job-related disabilities as from strikes.
- Estimated new cases of occupational diseases totaled 300,000.

In terms of lost production and wages, medical expenses and disability compensation, the burden on the nation's commerce was staggering. Human cost was beyond calculation. Therefore, the Occupational Safety and Health Act of 1970 (the Act) was passed by a bipartisan Congress "*. . . to assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources.*"

OSHA's Purpose

Under the Act, the Occupational Safety and Health Administration (OSHA) was created within the Department of Labor to:

- Encourage employers and employees to reduce workplace hazards and to implement new or improve existing safety and health programs;
- Provide for research in occupational safety and health to develop innovative ways of dealing with occupational safety and health problems;
- Establish "separate but dependent responsibilities and rights" for employers and employees for the achievement of better safety and health conditions;
- Maintain a reporting and record-keeping system to monitor job-related injuries and illnesses;
- Establish training programs to increase the number and competence of occupational safety and health personnel;
- Develop mandatory job safety and health standards and enforce them effectively; and
- Provide for the development, analysis, evaluation and approval of state occupational safety and health programs.

While OSHA continually reviews and redefines specific standards and practices, its basic purposes remain constant. OSHA strives to implement its mandate fully and firmly with fairness to all concerned. In all its procedures, from standards development through implementation and enforcement, OSHA guarantees employers and employees the right to be fully informed, to participate actively and to appeal actions.

The Act's Coverage

In general, coverage of the Act extends to all employers and their employees in the 50 states, the District of Columbia, Puerto Rico, and all other territories under Federal Government jurisdiction. Coverage is provided either directly by federal OSHA or through an OSHA-approved state program (see section on OSHA-Approved State Programs).

As defined by the Act, an employer is any "person engaged in a business affecting commerce who has employees, but does not include the United States or any State or political subdivision of a State." Therefore, the Act applies to employers and employees in such varied fields as manufacturing, construction, longshoring, agriculture, law and medicine, charity and disaster relief, organized labor and private education. Such coverage includes religious groups to the extent that they employ workers for secular purposes.

The following are not covered under the Act:

- Self-employed persons;
- Farms at which only immediate members of the farm employer's family are employed; and
- Working conditions regulated by other federal agencies under other federal statutes.

But even when another federal agency is authorized to regulate safety and health working conditions in a particular industry, if it does not do so in specific areas, then OSHA standards apply.

As OSHA develops effective safety and health standards of its own, standards issued under the following laws administered by the Department of Labor are superseded: the Walsh-Healey Act, the Service Contract Act, the Construction Safety Act, the Arts and Humanities Act and the Longshoremen's and Harbor Workers' Compensation Act.

Provisions for Federal Employees

Under the Act, federal agency heads are responsible for providing safe and healthful working conditions for their employees. The Act requires agencies to comply with standards consistent with those OSHA issues for private sector employers. OSHA conducts federal workplace inspections in

response to employees' reports of hazards and as part of a special program which identifies federal workplaces with higher than average rates of injuries and illnesses.

Federal agency heads are required to operate comprehensive occupational safety and health programs that include: recording and analyzing injury/illness data, providing training to all personnel, and conducting self-inspections to ensure compliance with OSHA standards. OSHA conducts comprehensive evaluations of these programs to assess their effectiveness.

OSHA's federal sector authority is different from that in the private sector in several ways. The most significant difference is that OSHA cannot propose monetary penalties against another federal agency for failure to comply with OSHA standards. Instead, compliance issues unresolved at the local level are raised to higher organizational levels until resolved. Another significant difference is that OSHA does not have authority to protect federal employee "whistleblowers." However, the Whistleblower Protection Act of 1989 affords present and former federal employees (other than those in the U.S. Postal Service and certain intelligence agencies) an opportunity to file their reports of reprisal with the Office of Special Counsel, U.S. Merit Systems Protection Board.

Provisions for State and Local Governments

OSHA provisions do not apply to state and local governments in their role as employers. The Act does provide that any state desiring to gain OSHA approval for its private sector occupational safety and health program (see section on State Plans) must provide a program that covers its state and local government workers and that is at least as effective as its program for private employees. State plans may also cover only public sector employees.

Standards

In carrying out its duties, OSHA is responsible for promulgating legally enforceable standards. OSHA standards may require conditions, or the adoption or use of one or more practices, means, methods or processes reasonably necessary and appropriate to protect workers on the job. It is the responsibility of employers to become familiar with standards applicable to their establishments and to ensure that employees have and use personal protective equipment when required for safety.

Employees must comply with all rules and regulations which are applicable to their own actions and conduct.

Where OSHA has not promulgated specific standards, employers are responsible for following the Act's general duty clause.

The general duty clause of the Act states that each employer "shall furnish. . .a place of employment which is free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees."

States with OSHA-approved occupational safety and health programs must set standards that are at least as effective as the federal standards. Many state plan states adopt standards identical to the federal.

Where to Get Copies of Standards

OSHA standards fall into four major categories—General Industry, Maritime, Construction, and Agriculture.

The *Federal Register* is one of the best sources of information on standards, since all OSHA standards are published there when adopted, as are all amendments, corrections, insertions or deletions. The *Federal Register* is available in many public libraries. Annual subscriptions are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. For the current price contact GPO.

Each year, the Office of the Federal Register publishes all current regulations and standards in the *Code of*

Federal Regulations (CFR), available at many libraries and from the Government Printing Office. OSHA's regulations are collected in Title 29 of the CFR, Part 1900-1999.

To assist the public in keeping current with OSHA standards, the OSHA Subscription Service was developed. This service provides all standards, interpretations, regulations, and procedures in easy-to-use loose-leaf form, punched for use in a three-ring binder. All changes and additions are issued for an indefinite period of time. The service is available from the Superintendent of Documents only and is not available from OSHA or from the Department of Labor (for current prices, contact GPO). Individual volumes of the OSHA Subscription Service are available as follows:

Volume I.	General Industry Standards and Interpretations (includes Agriculture)
Volume II.	Maritime Standards
Volume III.	Construction Standards
Volume IV.	Other Regulations and Procedures
Volume V.	Field Operations Manual
Volume VI.	OSHA Technical Manual

Since states adopt and enforce their own standards under state law, copies of state standards may be obtained from the individual states (see list of state plan states and addresses).

Standards Development

OSHA can begin standards-setting procedures on its own initiative, or in response to petitions from other parties, including the Secretary of Health and Human Services (HHS); the National Institute for Occupational Safety and Health (NIOSH); state and local governments; any nationally-recognized standards-producing organization; employer or labor representatives; or any other interested person.

Advisory Committees

If OSHA determines that a specific standard is needed, any of several advisory committees may be called upon to develop specific recommendations. There are two standing committees, and ad hoc committees may be appointed to examine special areas of concern to OSHA. All advisory committees, standing or ad hoc, must have members representing management, labor and state agencies, as well as one or more designees of the Secretary of HHS. The occupational safety and health professions and the general public also may be represented. The two standing advisory committees are:

- National Advisory Committee on Occupational Safety and Health (NACOSH), which advises, consults with, and makes recommendations to the Secretary of HHS and to the Secretary of Labor on matters regarding administration of the Act.

- Advisory Committee on Construction Safety and Health, which advises the Secretary of Labor on formulation of construction safety and health standards and other regulations.

NIOSH Recommendations

Recommendations for standards also may come from NIOSH, established by the Act as an agency of the Department of HHS.

NIOSH conducts research on various safety and health problems, provides technical assistance to OSHA and recommends standards for OSHA's adoption. While conducting its research, NIOSH may make workplace investigations, gather testimony from employers and employees and require that employers measure and report employee exposure to potentially hazardous materials. NIOSH also may require employers to provide medical examinations and tests to determine the incidence of occupational illness among employees. When such examinations and tests are required by NIOSH for research purposes, they may be paid for by NIOSH rather than the employer.

Standards Adoption

Once OSHA has developed plans to propose, amend or revoke a standard, it publishes these intentions in the *Federal Register* as a "Notice of Proposed Rulemaking," or often as an earlier "Advance Notice of Proposed Rulemaking."

An "Advance Notice" is used, when necessary, to solicit information that can be used in drafting a proposal. The Notice of Proposed Rulemaking will include the terms of the new rule and provide a specific time (at least 30 days from the date of publication, usually 60 days or more) for the public to respond.

Interested parties who submit written arguments and pertinent evidence may request a public hearing on the proposal when none has been announced in the notice. When such a hearing is requested, OSHA will schedule one, and will publish, in advance, the time and place for it in the *Federal Register*.

After the close of the comment period and public hearing, if one is held, OSHA must publish in the *Federal Register* the full, final text of any standard amended or adopted and the date it becomes effective, along with an explanation of the standard and the reasons for implementing it. OSHA may also publish a determination that no standard or amendment needs to be issued.

Emergency Temporary Standards

Under certain limited conditions, OSHA is authorized to set emergency temporary standards that take effect immediately and are in effect until

superseded by a permanent standard. OSHA must determine that workers are in grave danger due to exposure to toxic substances or agents determined to be toxic or physically harmful or to new hazards and that an emergency standard is needed to protect them. Then, OSHA publishes the emergency temporary standard in the *Federal Register*, where it also serves as a proposed permanent standard. It is then subject to the usual procedure for adopting a permanent standard except that a final ruling should be made within six months. The validity of an emergency temporary standard may be challenged in an appropriate U.S. Court of Appeals.

Appealing a Standard

No decision on a permanent standard is ever reached without due consideration of the arguments and data received from the public in written submissions and at hearings. Any person who may be adversely affected by a final or emergency standard, however, may file a petition (within 60 days of the rule's promulgation) for judicial review of the standard with the U.S. Court of Appeals for the circuit in which the objector lives or has his or her principal place of business. Filing an appeals petition, however, will not delay the enforcement of a standard, unless the Court of Appeals specifically orders it.

Variances

Employers may ask OSHA for a variance from a standard or regulation if they cannot fully comply by the effective date, due to shortages of materials, equipment or professional or technical personnel, or can prove their facilities or methods of operation provide employee protection "at least as effective" as that required by OSHA.

Employers located in states with their own occupational safety and health programs should apply to the state for a variance. If however, an employer operates facilities in states under federal OSHA jurisdiction and also in state plan states, the employer may apply directly to federal OSHA for a single variance applicable to all the establishments in question. OSHA will then work with the state plan states involved to determine if a variance can be granted which will satisfy state as well as federal OSHA requirements.

Temporary Variance

A temporary variance may be granted to an employer who cannot comply with a standard or regulation by its effective date due to unavailability of professional or technical personnel, materials or equipment, or because the necessary construction or alteration of facilities cannot be completed in time.

Employers must demonstrate to OSHA that they are taking all available steps to safeguard employees in the meantime, and that the employer has

put in force an effective program for coming into compliance with the standard or regulation as quickly as possible.

A temporary variance may be granted for the period needed to achieve compliance or for one year, whichever is shorter. It is renewable twice, each time for six months. An application for a temporary variance must identify the standard or portion of a standard from which the variance is requested and the reasons why the employer cannot comply with the standard. The employer must document those measures already taken and to be taken (including dates) to comply with the standard.

The employer must certify that workers have been informed of the variance application, that a copy has been given to the employees' authorized representative, and that a summary of the application has been posted wherever notices are normally posted. Employees also must be informed that they have the right to request a hearing on the application.

The temporary variance will not be granted to an employer who simply cannot afford to pay for the necessary alterations, equipment, or personnel.

Permanent Variance

A permanent variance (alternative to a particular requirement or standard) may be granted to employers who prove their conditions, practices, means, methods, operations, or processes provide a safe and healthful workplace as effectively as would compliance with the standard.

In making a determination, OSHA weighs the employer's evidence and arranges a variance inspection and hearing where appropriate. If OSHA

finds the request valid, it prescribes a permanent variance detailing the employer's specific exceptions and responsibilities under the ruling.

When applying for a permanent variance, the employer must inform employees of the application and of their right to request a hearing. Anytime after six months from the issuance of a permanent variance, the employer or employees may petition OSHA to modify or revoke it. OSHA also may do this of its own accord.

Interim Order

So that employers may continue to operate under existing conditions until a variance decision is made, they may apply to OSHA for an interim order. Application for an interim order may be made either at the same time as, or after, application for a variance. Reasons why the order should be granted may be included in the interim order application.

If OSHA denies the request, the employer is notified of the reason for denial.

If the interim order is granted, the employer and other concerned parties are informed of the order, and the terms of the order are published in the *Federal Register* (see p. 5 on how to obtain the *Federal Register*). The employer must inform employees of the order by giving a copy to the authorized employee representative and by posting a copy wherever notices are normally posted.

Experimental Variance

If an employer is participating in an experiment to demonstrate or validate new job safety and health techniques, and that experiment has been approved by either the Secretary of Labor or the Secretary of HHS, a variance may be granted to permit the experiment.

Other

In addition to temporary, permanent, and experimental variances, the Secretary of Labor also may find certain variances justified when the national defense is impaired. For further information and assistance in applying for a variance, contact the nearest OSHA office.

Variances are not retroactive. An employer who has been cited for a standards violation may not seek relief from that citation by applying for a variance. The fact that a citation is outstanding, however, does not prevent an employer from filing a variance application.

Public Petitions

OSHA continually reviews its standards to keep pace with developing and changing industrial technology. Therefore, employers and employees should be aware that, just as they may petition OSHA for the development of standards, they also may petition OSHA for modification or revocation of standards.

Recordkeeping and Reporting

Before the Act became effective, no centralized and systematic method existed for monitoring occupational safety and health problems.

Statistics on job injuries and illnesses were collected by some states and by some private organizations; national figures were based on not-altogether-reliable projections. With OSHA came the first basis for consistent, nationwide procedures—a vital requirement for gauging problems and solving them.

Employers of 11 or more employees must maintain records of occupational injuries and illnesses as they occur. Employers with 10 or fewer employees are exempt from keeping such records unless they are selected by the Bureau of Labor Statistics (BLS) to participate in the Annual Survey of Occupational Injuries and Illnesses. The purposes of keeping records are to permit BLS survey material to be compiled, to help define high hazard industries, and to inform employees of the status of their employer's record. Employers in state plan states are required to keep the same records as employers in other states.

OSHA recordkeeping is not required for all employers in retail trade, finance, insurance, real estate, and service industries—Standard Industrial Classification (SIC) 52-89 (except building materials and garden supplies, SIC 52; general merchandise and food stores, SIC 53 and 54; hotels and other lodging places, SIC 70; repair services, SIC 75 and 76; amusement and recreation services, SIC 79; and health services, SIC 80). A few regularly exempt employers will have to maintain records if they are selected to participate in the Annual Survey of Occupational Injuries and Illnesses. They will be notified in advance and supplied with the necessary forms and instructions. Exempt employers, like nonexempt employers, must comply with OSHA standards, display the OSHA poster, and report to OSHA within 48 hours any accident that results in one or more fatalities or the hospitalization of five or more employees.

What is considered to be an occupational injury or illness? An occupational injury is any injury such as a cut, fracture, sprain or amputation that results from a work-related accident or from exposure involving a single incident in the work environment. An

occupational illness is any abnormal condition or disorder, other than one resulting from an occupational injury, caused by exposure to environmental factors associated with employment. Included are acute and chronic illnesses or diseases which may be caused by inhalation, absorption, ingestion or direct contact with toxic substances or harmful agents.

All occupational illnesses must be recorded regardless of severity. All occupational injuries must be recorded if they result in:

- Death (must be recorded regardless of the length of time between the injury and death);
- One or more lost workdays;
- Restriction of work or motion;
- Loss of consciousness;
- Transfer to another job; or
- Medical treatment (other than first aid).

If an on-the-job accident occurs that results in the death of an employee or in the hospitalization of five or more employees, all employers, regardless of number of employees, must report the accident, in detail, to the nearest OSHA office within 48 hours.

In states with approved plans, employers report such accidents to the state agency responsible for safety and health programs.

Injury and Illness Records

Employers must keep injury and illness records for each establishment. An establishment is defined as a "single physical location where business is conducted or where services are performed." An employer whose employees work in dispersed locations must keep records at the place where the employees report for work. In some situations, employees do not report to work at the same place each day. In that case, records must be kept at the place from which they are paid or at the base from which they operate.

Recordkeeping Forms

Recordkeeping forms are maintained on a calendar year basis. They are not sent to OSHA or any other agency. They must be maintained for five years at the establishment and must be available for inspection by representatives of OSHA, HHS, BLS or the designated state agency. Only two forms are needed for recordkeeping.

OSHA No. 200, Log and Summary of Occupational Injuries and Illnesses: Each recordable occupational injury and illness must be logged on this form within six working days from the time the employer learns of it. If the log is prepared at a central location by automatic data processing equipment, a copy current to within 45 calendar days must be present at all times in the establishment. A substitute for the OSHA No. 200 is acceptable if it is

as detailed, easily readable and understandable as the OSHA No. 200.

OSHA No. 101, Supplementary Record of Occupational Injuries and Illnesses. The form OSHA No. 101 contains much more detail about each injury or illness. It also must be completed within six working days from the time the employer learns of the work-related injury or illness. A substitute for the OSHA No. 101 (such as insurance or workers' compensation forms) may be used if it contains all required information.

Annual Survey. Employers selected to participate in the annual statistical survey receive in the mail, soon after the close of the year, form OSHA No. 200S for this purpose. Each employer selected must complete this report, using form No. 200 as the source of information, and return it to BLS. Small business employers (employers with 10 or fewer employees) selected for the survey are notified at the beginning of the year and are supplied with a form OSHA No. 200.

Many specific OSHA standards have additional recordkeeping and reporting requirements.

Posting Requirements

A copy of the totals and information following the fold line of the last page of OSHA No. 200 for the year must be posted at each establishment wherever notices to employees are customarily posted. This copy must be posted no later than February 1, and kept in place until March 1. Even though there were no injuries or illnesses during the year, zero must be entered on the totals line, and the form posted.

Recordkeeping Variances

Employers wishing to set up a recordkeeping system different from the one required by OSHA regulations may apply for a recordkeeping variance. Petitions for recordkeeping variances must detail and justify the employer's intended procedures and must be submitted to the regional commissioner of BLS for the area in which the workplace is located. Similarly, in state plan states, only BLS can grant a variance from recordkeeping requirements.

As with applications for variances from standards, an employer filing for a recordkeeping variance must give a copy of the application to the employees' authorized representative. The employer also must post a summary of the application wherever notices are normally posted. Employees have 10 working days to submit to BLS their own written data, views, or arguments.

Keeping Employees Informed

Employers are responsible for keeping employees informed about OSHA and about the various safety and health matters with which they are involved.

Federal OSHA and states with their own occupational safety and health programs require that each employer post certain materials at a prominent location in the workplace. These include:

- Job Safety and Health Protection workplace poster (OSHA 2203 or state equivalent) informing employees of their rights and responsibilities under the Act. Besides displaying the workplace poster, the employer must make available to employees, upon request, copies of the Act and copies of relevant OSHA rules and regulations. Any official edition of the poster is acceptable.
- Summaries of petitions for variances from standards or recordkeeping procedures.
- Copies of all OSHA citations for violations of standards. These must remain posted at or near the location of alleged violations for three days, or until the violations are corrected, whichever is longer.
- Log and Summary of Occupational Injuries and Illnesses (OSHA No. 200). The summary page of the log must be posted no later than February 1, and must remain in place until March 1.

All employees have the right to examine any records kept by their employers regarding exposure to hazardous materials, or the results of medical surveillance.

Occasionally, OSHA standards or NIOSH research activities will require an employer to measure and record employee exposure to potentially harmful substances. Employees have the right (in person or through their authorized representative) to be present during the measuring as well as to examine records of the results.

Under these substance-specific requirements, each employee or former employee has the right to see his or her examination records, and must be told by the employer if exposure has exceeded the levels set by standards. The employee must also be told what corrective measures are being taken.

In addition to having access to records, employees in manufacturing facilities must be provided information about all of the hazardous chemicals in their work areas. Employers are to provide this information by means of labels on containers, material safety data sheets, and training programs.

Workplace Inspections

Authority to Inspect To enforce its standards, OSHA is authorized under the Act to conduct workplace inspections.

Every establishment covered by the Act is subject to inspection by OSHA compliance safety and health officers, who are chosen for their knowledge and experience in the occupational safety and health field. Compliance officers are vigorously trained in OSHA standards and in recognition of safety and health hazards. Similarly, states with their own occupational safety and health programs conduct inspections using qualified compliance safety and health officers.

Under the Act, "upon presenting appropriate credentials to the owner, operator or agent in charge," an OSHA compliance officer is authorized to:

- "Enter without delay and at reasonable times any factory, plant, establishment, construction site or other areas, workplace, or environment where work is performed by an employee of an employer; and to
- "Inspect and investigate during regular working hours, and at other reasonable times, and within reasonable limits and in a reasonable manner, any such place of employment and all pertinent conditions, structures, machines, apparatus, devices, equipment and materials therein, and to question privately any such employer, owner, operator, agent or employee."

Inspections are conducted without advance notice. In fact, alerting an employer in advance of an OSHA inspection can bring a criminal fine of up to $1,000 and/or a six-month jail term.

There are, however, special circumstances under which OSHA may indeed give notice to the employer, but even then, such a notice will be less than 24 hours. These special circumstances include:

- Imminent danger situations which require correction as soon as possible;
- Inspections that must take place after regular business hours, or that require special preparation;
- Cases where notice is required to ensure that the employer and employee representative or other personnel will be present; and or
- Situations in which the OSHA

area director determines that advance notice would produce a more thorough or effective inspection.

Employers receiving advance notice of an inspection must inform their employees' representative or arrange for OSHA to do so.

If an employer refuses to admit an OSHA compliance officer, or if an employer attempts to interfere with the inspection, the Act permits appropriate legal action.

Based on a 1978 Supreme Court ruling (Marshall v. Barlow's, Inc.), OSHA may not conduct warrantless inspections without an employer's consent. It may, however, inspect after acquiring a judicially authorized search warrant based upon administrative probable cause or upon evidence of a violation.

Inspection Priorities

Obviously, not all 6 million workplaces covered by the Act can be inspected immediately. The worst situations need attention first. Therefore, OSHA has established a system of inspection priorities.

Imminent Danger

Imminent danger situations are given top priority. An imminent danger is any condition where there is reasonable certainty that a danger exists that can be expected to cause death or serious physical harm immediately, or before the danger can be eliminated through normal enforcement procedures.

Serious physical harm is any type of harm that could cause permanent or prolonged damage to the body or which, while not damaging the body on a prolonged basis, could cause such temporary disability as to require in-patient hospital treatment. OSHA considers that "permanent or prolonged damage" has occurred when, for example, a part of the body is crushed or severed; an arm, leg, or finger is amputated; or sight in one or both eyes is lost. This kind of damage also includes that which renders a part of the body either functionally useless or substantially reduced in efficiency on or off the job. An example: bones in a limb shattered so severely that mobility or dexterity will be permanently reduced.

Temporary disability requiring in-patient hospital treatment includes injuries such as simple fractures, concussions, burns, or wounds involving substantial loss of blood and requiring extensive suturing or other healing aids.

Injuries or illnesses that are difficult to observe are classified as serious if they inhibit a person in performing normal functions, cause reduction in physical or mental efficiency or shorten life.

Health hazards may constitute imminent danger situations when they present a serious and immediate threat to life or health.

For a health hazard to be considered an imminent danger, there must be a reasonable expectation (1) that toxic substances such as dangerous fumes, dusts or gases are present, and (2) that exposure to them will cause immediate and irreversible harm to such a degree as to shorten life or cause reduction in physical or mental efficiency, even though the resulting harm is not immediately apparent.

Employees should inform the supervisor or employer immediately if they detect or even suspect an imminent danger situation in the workplace. If the employer takes no action to eliminate the danger, an employee or the authorized employee representative may notify the nearest OSHA office and request an inspection. The request should identify the workplace location, detail the hazard or condition and include the employee's name, address and telephone number. Although the employer has the right to see a copy of the complaint if an inspection results, the name of the employee will be withheld if the employee so requests.

The OSHA area director reviews the information and immediately determines whether there is a reasonable basis for the allegation. If it is decided the case has merit, the area director will assign a compliance officer to conduct an immediate inspection of the workplace.

Upon inspection, if an imminent danger situation is found, the compliance officer will ask the employer to voluntarily abate the hazard and to remove endangered employees from exposure. Should the employer fail to do this OSHA, through the regional solicitor, may apply to the nearest Federal District Court for appropriate legal action to correct the situation. Before the OSHA inspector leaves the workplace, he or she will advise all affected employees of the hazard and post an imminent danger notice. Judicial action can produce a temporary restraining order (immediate shutdown) of the operation or section of the workplace where the imminent danger exists. Should OSHA "arbitrarily or capriciously" decline to bring court action, the affected employees may sue the Secretary of Labor to compel the Secretary to do so.

Walking off the job because of potentially unsafe workplace conditions is not ordinarily an employee right. To do so may result in disciplinary action by the employer. However, an employee does have the right to refuse (in good faith) to be exposed to an imminent danger. OSHA rules protect employees from discrimination if:

- Where possible, he or she asked the employer to eliminate the danger, and the employer failed to do so; and
- The danger is so imminent that there is not sufficient time to have the danger eliminated through normal enforcement procedures; and

- The danger facing the employee is so grave that "a reasonable person" in the same situation would conclude there is a real danger of death or serious physical harm; and
- The employee has no reasonable alternative to refusing to work under these conditions (e.g., asking for reassignment to another area).

Catastrophes and Fatal Accidents

Second priority is given to investigation of fatalities and catastrophes resulting in hospitalization of five or more employees. Such situations must be reported to OSHA by the employer within 48 hours. Investigations are made to determine if OSHA standards were violated and to avoid recurrence of similar accidents.

Employee Complaints

Third priority is given to employee complaints of alleged violation of standards or of unsafe or unhealthful working conditions.

The Act gives each employee the right to request an OSHA inspection when the employee feels he or she is in imminent danger from a hazard or when he or she feels that there is a violation of an OSHA standard that threatens physical harm. OSHA will maintain confidentiality if requested, will inform the employee of any action it takes regarding the complaint and, if requested, will hold an informal review of any decision not to inspect. Just as in situations of imminent danger, the employee's name will be withheld from the employer, if the employee so requests.

Programmed High-Hazard Inspections

Next in priority are programmed, or planned, inspections aimed at specific high-hazard industries, occupations or health substances. Industries are selected for inspection on the basis of factors such as the death, injury and illness incidence rates, and employee exposure to toxic substances. Special emphasis may be regional or national in scope, depending on the distribution of the workplaces involved. States with their own occupational safety and health programs may use somewhat different systems to identify high-hazard industries for inspection.

Followup Inspections

A followup inspection determines whether previously cited violations have been corrected. If an employer has failed to abate a violation, the compliance officer informs the employer that he/she is subject to "Notification of Failure to Abate" alleged violations and may face additional proposed daily penalties while such failure or violation continues.

Inspection Process

Prior to inspection, the compliance officer becomes familiar with as many

relevant facts as possible about the workplace, taking into account such things as the history of the establishment, the nature of the business and the particular standards likely to apply. Preparing for the inspection also involves selecting appropriate equipment for detecting and measuring fumes, gases, toxic substances, noise, etc.

Inspector's Credentials

An inspection begins when the OSHA compliance officer arrives at the establishment. He or she displays official credentials and asks to meet an appropriate employer representative. Employers should always insist upon seeing the compliance officer's credentials.

An OSHA compliance officer carries U.S. Department of Labor credentials bearing his or her photograph and a serial number that can be verified by phoning the nearest OSHA office. Anyone who tries to collect a penalty at the time of inspection, or promotes the sale of a product or service at any time, is not an OSHA compliance officer. Posing as a compliance officer is a violation of law; suspected impostors should be promptly reported to local law enforcement agencies.

Opening Conference

In the opening conference, the compliance officer (CSHO) explains why the establishment was selected. The CSHO also will ascertain whether an OSHA-funded consultation program is in progress or whether the facility is pursuing or has received an inspection exemption; if so, the inspection is usually terminated.

The compliance officer then explains the purpose of the visit, the scope of the inspection, and the standards that apply. The employer will be given copies of applicable safety and health standards as well as a copy of any employee complaint that may be involved. If the employee has so requested, his or her name will not be revealed.

The employer is asked to select an employer representative to accompany the compliance officer during the inspection.

An authorized employee representative also is given the opportunity to attend the opening conference and to accompany the compliance officer during the inspection. If the employees are represented by a recognized bargaining representative, the union ordinarily will designate the employee representative to accompany the compliance officer. Similarly, if there is a plant safety committee, the employee members of that committee will designate the employee representative (in the absence of a recognized bargaining representative). Where neither employee group exists, the employee representative may be selected by the employees themselves, or the compliance officer will determine if any employee suitably represents the

interest of other employees. Under no circumstances may the employer select the employee representative for the walkaround.

The Act does not require that there be an employee representative for each inspection. Where there is no authorized employee representative, however, the compliance officer must consult with a reasonable number of employees concerning safety and health matters in the workplace; such consultations may be held privately.

Inspection Tour

After the opening conference, the compliance officer and accompanying representatives proceed through the establishment, inspecting work areas for compliance with OSHA standards.

The route and duration of the inspection are determined by the compliance officer. While talking with employees, the compliance officer makes every effort to minimize any work interruptions. The compliance officer observes conditions, consults with employees, may take photos (for record purposes), takes instrument readings and examines records.

Trade secrets observed by the compliance officer must and will be kept confidential. An inspector who releases confidential information without authorization is subject to a $1,000 fine and/or one year in jail. The

employer may require that the employee representative have a security clearance for any area in question.

Employees are consulted during the inspection tour. The compliance officer may stop and question workers in private about safety and health conditions and practices in their workplaces. Each employee is protected under the Act from discrimination for exercising safety and health rights.

Posting and recordkeeping are checked. The compliance officer will inspect records of deaths, injuries and illnesses which the employer is required to keep. He or she will check to see that a copy of the totals from the last page of OSHA No. 200 has been posted and that the OSHA workplace poster (OSHA 2203) is prominently displayed. Where records of employee exposure to toxic substances and harmful physical agents have been required, they also are examined.

During the course of the inspection, the CSHO will point out to the employer any unsafe or unhealthful working conditions observed. At the same time, the CSHO will discuss possible corrective action if the employer so desires.

Some apparent violations detected by the compliance officer can be corrected immediately. When they are corrected on the spot, the compliance officer records such corrections to help in judging the employer's good faith in compliance. Even though corrected, however, the apparent violations may still serve as the basis for a citation and/or notice of proposed penalty. (For cases where imminent danger situations are detected, see p.17).

An inspection tour may cover part or all of an establishment, even if the inspection resulted from a specific complaint, fatality or catastrophe.

Closing Conference

After the inspection tour, a closing conference is held between the compliance officer and the employer or the employer representative. It is a time for free discussion of problems and needs; a time for frank questions and answers.

The compliance officer discusses with the employer all unsafe or unhealthful conditions observed on the inspection and indicates all apparent violations for which a citation may be issued or recommended. The employer is told of appeal rights. The compliance officer does not indicate any proposed penalties. Only the OSHA area director has that authority, and only after having received a full report.

During the closing conference, the employer may wish to produce records to show compliance efforts and to provide information which can help OSHA determine how much time may be needed to abate an alleged violation. When appropriate, more than one closing conference may be held. This is usually necessary when

health hazards are being evaluated or when laboratory reports are required.

A closing discussion will be held with the employees, or their representative if requested, to discuss matters of direct interest to employees. The employees' representative may be present at the closing conference.

The CSHO explains that OSHA area offices are full-service resource centers that provide a number of services such as: guest speakers, handout packages of materials that can be distributed to interested persons, the availability of training and technical materials on safety and health matters, and many other services. The CSHO also explains the requirements of the Hazard Communication Standard where employers must establish a written, comprehensive hazard communication program that includes provisions for container labeling, material safety data sheets, and an employee training program. The program must provide a list of the hazardous chemicals in each work area and the means the employer will use to inform employees of the hazards of non-routine tasks.

Citations and Penalties

Citations Issued by the Area Director After the compliance officer reports findings, the area director determines what citations, if any, will be issued, and what penalties, if any, will be proposed.

Citations inform the employer and employees of the regulations and standards alleged to have been violated and of the proposed length of time set for their abatement. The employer will receive citations and notices of proposed penalties by certified mail. The employer must post a copy of each citation at or near the place a violation occurred, for three days or until the violation is abated, whichever is longer.

Penalties

These are the types of violations that may be cited and the penalties that may be proposed

- **Other Than Serious Violation**—A violation that has a direct relationship to job safety and health, but probably would not cause death or serious physical harm. A proposed penalty of up to $7,000 for each violation is discretionary. A penalty for an other-than-serious violation may be adjusted downward by as much as 95 percent, depending on the employer's good faith (demonstrated efforts to comply with the Act), history of previous violations, and size of business. When the adjusted penalty amounts to less than $50, no penalty is proposed.
- **Serious Violation**—A violation where there is substantial probability that death or serious physical harm could result and that the employer knew, or should have known, of the hazard. A mandatory penalty of up to $7,000 for each violation is proposed. A penalty for a serious violation may be adjusted downward, based on the employer's good faith, history of previous violations, the gravity of the alleged violation, and size of business.
- **Willful Violation**—A violation that the employer intentionally and knowingly commits. The employer either knows that what he or she is doing constitutes a violation, or is aware that a hazardous condition existed and

made no reasonable effort to eliminate it.

- Penalties of up to $70,000 may be proposed for each willful violation, with a minimum penalty of $5,000 for each violation. A proposed penalty for a willful violation may be adjusted downward, depending on the size of the business and its history of previous violations. Usually, no credit is given for good faith.
- If an employer is convicted of a willful violation of a standard that has resulted in the death of an employee, the offense is punishable by a court-imposed fine or by imprisonment for up to six months, or both. A fine of up to $250,000 for an individual, or $500,000 for a corporation, may be imposed for a criminal conviction.
- **Repeat Violation**—A violation of any standard, regulation, rule or order where, upon reinspection, a substantially similar violation is found. Repeat violations can bring a fine of up to $70,000 for each such violation. To be the basis of a repeat citation, the original citation must be final; a citation under contest may not serve as the basis for a subsequent repeat citation.
- **Failure to Correct Prior Violation**—Failure to correct a prior violation may bring a civil penalty of up to $7,000 for each day the violation continues beyond the prescribed abatement date.

Additional violations for which citations and proposed penalties may be issued upon conviction:

- Falsifying records, reports or applications can bring a fine of $10,000 or up to six months in jail, or both.
- Violations of posting requirements can bring a civil penalty of up to $7,000.
- Assaulting a compliance officer, or otherwise resisting, opposing, intimidating, or interfering with a compliance officer in the performance of his or her duties is a criminal offense, subject to a fine of not more than $5,000 and imprisonment for not more than three years.

Citation and penalty procedures may differ somewhat in states with their own occupational safety and health programs.

Appeals Process

Appeals by Employees If an inspection was initiated due to an employee complaint, the employee or authorized employee representative may request an informal review of any decision not to issue a citation.

Employees may not contest citations, amendments to citations, penalties or lack of penalties. They may contest the time in the citation for abatement of a hazardous condition. They also may contest an employer's Petition for Modification of Abatement (PMA) which requests an extension of the abatement period. Employees must contest the PMA within 10 working days of its posting or within 10 working days after an authorized employee representative has received a copy.

Within 15 working days of the employer's receipt of the citation, the employee may submit a written objection to OSHA. The OSHA area director forwards the objection to the Occupational Safety and Health Review Commission, which operates independently of OSHA.

Employees may request an informal conference with OSHA to discuss any issues raised by an inspection, citation, notice of proposed penalty or employer's notice of intention to contest.

Appeals by Employers

When issued a citation or notice of a proposed penalty, an employer may request an informal meeting with OSHA's area director to discuss the case. Employee representatives may be invited to attend the meeting. The area director is authorized to enter into settlement agreements that revise citations and penalties to avoid prolonged legal disputes.

Petition for Modification of Abatement

Upon receiving a citation, the employer must correct the cited hazard by the prescribed date unless he or she contests the citation or abatement date. Factors beyond the employer's reasonable control may prevent the completion of corrections by that date. In such a situation, the employer who has made a good faith effort to comply may file a PMA for an extended date.

The written petition should specify all steps taken to achieve compliance, the additional time needed to achieve

complete compliance, the reasons such additional time is needed, all temporary steps being taken to safeguard employees against the cited hazard during the intervening period, that a copy of the PMA was posted in a conspicuous place at or near each place where a violation occurred, and that the employee representative (if there is one) received a copy of the petition.

Notice of Contest

If the employer decides to contest either the citation, the time set for abatement, or the proposed penalty, he or she has 15 working days from the time the citation and proposed penalty are received in which to notify the OSHA area director in writing. An orally expressed disagreement will not suffice. This written notification is called a "Notice of Contest."

There is no specific format for the Notice of Contest; however, it must clearly identify the employer's basis for filing the citation, notice of proposed penalty, abatement period, or notification of failure to correct violations.

A copy of the Notice of Contest must be given to the employees' authorized representative. If any affected employees are not represented by a recognized bargaining agent, a copy of the notice must be posted in a prominent location in the workplace, or else served personally upon each unrepresented employee.

Review Procedure

If the written Notice of Contest has been filed within the required 15 working days, the OSHA area director forwards the case to the Occupational Safety and Health Review Commission (OSHRC). The Commission is an independent agency not associated with OSHA or the Department of Labor. The Commission assigns the case to an administrative law judge.

The judge may disallow the contest if it is found to be legally invalid, or a hearing may be scheduled for a public place near the employer's workplace. The employer and the employees have the right to participate in the hearing; the OSHRC does not require that they be represented by attorneys.

Once the administrative law judge has ruled, any party to the case may request a further review by OSHRC. Any of the three OSHRC commissioners also may, at his or her own motion, bring a case before the Commission for review. Commission rulings may be appealed to the appropriate U.S. Court of Appeals.

Appeals In State Plan States

States with their own occupational safety and health programs have a state system for review and appeal of citations, penalties, and abatement periods. The procedures are generally similar to federal OSHA's, but cases are heard by a state review board or equivalent authority.

OSHA-Approved State Programs

The Act encourages states to develop and operate, under OSHA guidance, state job safety and health plans.

Once a state plan is approved, OSHA funds up to 50 percent of the program's operating costs. State plans are required to provide standards and enforcement programs, as well as voluntary compliance activities, which are at least as effective as the federal program. State plans developed for the private sector also must, to the extent permitted by state law, provide coverage for state and local government employees. OSHA rules also permit states to develop plans limited in coverage to public sector (state and local government) employees only; in such cases, private sector employment remains under federal jurisdiction.

To gain OSHA approval as a developmental plan, a state must have adequate legislative authority and must demonstrate that within three years it will provide standards-setting, enforcement and appeals procedures; public employee protection; a sufficient number of competent enforcement personnel; and training, education and technical assistance programs. If, at any time during this period or later, it appears that the state is capable of enforcing standards in accordance with the above requirements, OSHA may enter into an "operational status agreement" with the state. OSHA generally limits its enforcement activity to areas not covered by the state in the agreement and suspends all concurrent federal enforcement. Scheduled accident and complaint inspections are generally the primary responsibility of the state. OSHA closely monitors state programs.

When all development steps concerning resources, procedures, and other requirements have been completed and approved, OSHA then certifies that a state has the legal, administrative, and enforcement means necessary to operate effectively. This action renders no judgment on how well or poorly a state is actually operating its program but merely attests to the structural completeness of its program. After this certification there is a period of at least one year to determine if a state is effectively providing safety and health protection.

Employers and employees should find out if their state operates an OSHA-approved state program and, if so, become familiar with it (see list of

states with their own occupational safety and health programs). State safety and health standards under approved plans must keep pace with federal standards, and state plans must guarantee employer and employee rights as does OSHA. If it is found that the state is operating at least as effectively as federal OSHA and other requirements including compliance staffing levels are met, final approval of the plan may be granted and federal authority will cease in those areas over which the state has jurisdiction.

Anyone finding inadequacies or other problems in the administration of a state's program may file a complaint about state program administration (CASPA) with the appropriate regional administrator for OSHA. The complainant's name is kept confidential. OSHA investigates all such complaints and, where complaints are found to be valid, requires appropriate corrective action on the part of the state.

Consultation Assistance Consultation assistance is available to employers who want help in establishing and maintaining a safe and healthful workplace.

Largely funded by the OSHA, the service is provided at no cost to the employer.

No penalties are proposed or citations issued for hazards identified by the consultant.

The service is provided to the employer with the assurance that his or her name and firm and any information about the workplace will not be routinely reported to OSHA inspection staff.

Besides helping employers identify and correct specific hazards, consultation can include assistance in developing and implementing effective workplace safety and health programs with emphasis on the prevention of worker injuries and illnesses. Training and education services are also provided, as well as limited assistance away from the worksite.

Primarily developed for smaller employers with more hazardous operations, the consultation service is delivered by state government agencies or universities employing professional safety consultants and health consultants. When delivered at the worksite, consultation assistance includes an opening conference with the employer to explain the ground rules for consultation, a walk through the workplace to identify any specific hazards and to examine those aspects of the employer's safety and health program which relate to the scope of the visit, and a closing conference followed by a written report to the employer of the consultant's findings and recommendations.

This process begins with the employer's request for consultation and the commitment to correct any serious job safety and health hazards identified by the consultant. Possible violations of OSHA standards will not be reported to OSHA enforcement staff unless the employer fails or refuses to eliminate or control worker exposure to any identified serious hazard or imminent danger situation. In such unusual circumstances, OSHA may investigate and begin enforcement action.

Employers who receive a comprehensive consultation visit, correct all identified hazards, and demonstrate that an effective safety and health program

is in operation may be exempted from OSHA general schedule enforcement inspections (not complaint or accident investigations) for a period of one year. Comprehensive consultation assistance includes an appraisal of all mechanical, physical work practice, and environmental hazards of the workplace and all aspects of the employer's present job safety and health program.

Additional information concerning consultation assistance, including a directory of OSHA-funded consultation projects, can be obtained by requesting OSHA publication No. 3047, *Consultation Services for the Employer.* (See also list of consultation projects at the end of this booklet.)

Voluntary Protection Programs

The Voluntary Protection Programs (VPPs) represent one part of OSHA's effort to extend worker protection beyond the minimum required by OSHA standards. These programs, along with others such as expanded onsite consultation services and full-service area offices, are cooperative approaches which, when coupled with an effective enforcement program, expand worker protection to help meet the goals of the Occupational Safety and Health Act of 1970.

The three VPPs—Star, Merit, and Demonstration—are designed to:

- Recognize outstanding achievement of those who have successfully incorporated comprehensive safety and health programs into their total management system;
- Motivate others to achieve excellent safety and health results in the same outstanding way; and
- Establish a relationship between employers, employees, and OSHA that is based on cooperation rather than coercion.

The **Star Program** is the most demanding and the most prestigious. It is open to an employer in any industry who has successfully managed a comprehensive safety and health program to reduce injury rates below the national average for the industry. Specific requirements for the program include: management commitment and employee participation; a high quality worksite analysis program; hazard prevention and control programs; and comprehensive safety and health training for all employees. These requirements must all be in place and operating effectively.

The **Merit Program** is primarily a stepping stone to Star Program participation. An employer with a basic safety and health program built around the Star requirements who is committed to improving the company's program and who has the resources to do so within a specified period of time may work with OSHA to meet Star qualifications.

The **Demonstration Program** is for companies that provide Star-quality worker protection in industries where certain Star requirements may not be appropriate or effective. It allows OSHA both the opportunity to recognize outstanding safety and health programs that would otherwise be unreached by the VPP and to determine if general Star requirements can be changed to include these companies as Star participants.

OSHA reviews an employer's VPP application and conducts an on-site review to verify that the safety and health program described is in operation at the site. Evaluations are conducted on a regular basis, annually for Merit and Demonstration programs, and triennially for Star. All participants must send their injury information annually to their OSHA regional office. Sites participating in the VPP are not scheduled for programmed inspections; however, any employee complaints, serious accidents or significant chemical releases that may occur are handled according to routine enforcement procedures.

An employer may make application for any VPP at the nearest OSHA regional office. Once OSHA is satisfied that, on paper, the employer qualifies for the program, an onsite review will be scheduled. The review team presents its findings in a written report for the company's review prior to submission to the Assistant Secretary of Labor, who heads OSHA. If approved, the employer receives a letter from the Assistant Secretary informing the site of its participation in the VPP. A cer-

tificate of approval and flag are presented at a ceremony held at or near the approved worksite. Star sites receiving reapproval after each triennial evaluation receive plaques at similar ceremonies.

The VPPs described are available in states under federal jurisdiction. Some state plan states have similar programs. Interested companies in these states should contact the appropriate state designee for more information.

Additional information on the VPP is available from OSHA national, regional, and area offices (see list at the end of this booklet.)

Training and Education

OSHA's area offices are full-service centers offering a variety of informational services such as availability for speaking engagements, publications, audiovisual aids on workplace hazards, and technical advice.

The OSHA Training Institute in Des Plaines, IL, provides basic and advanced training and education in safety and health for federal and state compliance officers; state consultants; other federal agency personnel; and private sector employers, employees and their representatives. Institute courses cover areas such as electrical hazards, machine guarding, ventilation and ergonomics. The Institute facility includes classrooms, laboratories, a library, and an audiovisual unit. The laboratories contain various demonstrations and equipment, such as power presses, woodworking and welding shops, a complete industrial ventilation unit and a sound demonstration laboratory. More than 60 courses are available for personnel in the private sector dealing with subjects such as safety and health in the construction industry and methods of voluntary compliance with OSHA standards.

OSHA also provides funds to nonprofit organizations to conduct workplace training and education in subjects where OSHA believes there is a current lack of workplace training. OSHA identifies areas of unmet needs for safety and health education in the workplace annually and invites grant applications to address these needs. Current grant subjects include agricultural health and safety, and hazard communication programs for small businesses that do not have safety and health staff to assist them.

Organizations awarded grants use funds to develop training and educational programs, reach out to workers and employers for whom their program is appropriate, and provide these programs to workers and employers.

Grants are awarded annually, with a one-year renewal possible. Grant recipients are expected to contribute 20 percent of the total grant cost.

Employer Responsibilities and Rights

Employers have certain responsibilities and rights under the Occupational Safety and Health Act of 1970.

The checklists that follow provide a review of many of these. Employer responsibilities and rights in states with their own occupational safety and health programs are generally the same as in federal OSHA states.

Responsibilities

As an employer, you must:

- Meet your general duty responsibility to provide a workplace free from recognized hazards that are causing or are likely to cause death or serious physical harm to employees, and comply with standards, rules and regulations issued under the Act.
- Be familiar with mandatory OSHA standards and make copies available to employees for review upon request.
- Inform all employees about OSHA.
- Examine workplace conditions to make sure they conform to applicable standards.
- Minimize or reduce hazards.
- Make sure employees have and use safe tools and equipment (including appropriate personal protective equipment), and that such equipment is properly maintained.
- Use color codes, posters, labels, or signs when needed to warn employees of potential hazards.
- Establish or update operating procedures and communicate them so that employees follow safety and health requirements.
- Provide medical examinations when required by OSHA standards.
- Provide training required by OSHA standards (e.g., hazard communication, lead, etc).[1]
- Report to the nearest OSHA office within 48 hours any fatal accident or one that results in the hospitalization of five or more employees.
- Keep OSHA-required records of work-related injuries and illnesses, and post a copy of the totals from the last page of OSHA No.

[1]See OSHA booklet entitled, *Training Requirements in OSHA Standards and Training Guidelines* (OSHA 2254).

200 during the entire month of February each year. (This applies to employers with 11 or more employees.)

- Post, at a prominent location within the workplace, the OSHA poster (OSHA 2203) informing employees of their rights and responsibilities. (In states operating OSHA-approved job safety and health programs, the state's equivalent poster and/or OSHA 2203 may be required.)
- Provide employees, former employees and their representatives access to the Log and Summary of Occupational Injuries and Illnesses (OSHA No. 200) at a reasonable time and in a reasonable manner.
- Provide access to employee medical records and exposure records to employees or their authorized representatives.
- Cooperate with the OSHA compliance officer by furnishing names of authorized employee representatives who may be asked to accompany the compliance officer during an inspection. (If none, the compliance officer will consult with a reasonable number of employees concerning safety and health in the workplace.)
- Not discriminate against employees who properly exercise their rights under the Act.
- Post OSHA citations at or near the worksite involved. Each citation, or copy thereof, must remain posted until the violation has been abated, or for three working days, whichever is longer.
- Abate cited violations within the prescribed period.

Rights

As an employer, you have the right to:

- Seek advice and off-site consultation as needed by writing, calling or visiting the nearest OSHA office. (OSHA will not inspect merely because an employer requests assistance)
- Be active in your industry association's involvement in job safety and health.
- Request and receive proper identification of the OSHA compliance officer prior to inspection.
- Be advised by the compliance officer of the reason for an inspection.
- Have an opening and closing conference with the compliance officer.
- Accompany the compliance officer on the inspection.
- File a Notice of Contest with the OSHA area director within 15 working days of receipt of a notice of citation and proposed penalty.

- Apply to OSHA for a temporary variance from a standard if unable to comply because of the unavailability of materials, equipment or personnel needed to make necessary changes within the required time.
- Apply to OSHA for a permanent variance from a standard if you can furnish proof that your facilities or method of operation provide employee protection at least as effective as that required by the standard.
- Take an active role in developing safety and health standards through participation in OSHA Standards Advisory Committees, through nationally recognized standards-setting organizations and through evidence and views presented in writing or at hearings.
- Be assured of the confidentiality of any trade secrets observed by an OSHA compliance officer during an inspection.
- Submit a written request to NIOSH for information on whether any substance in your workplace has potentially toxic effects in the concentrations being used.

Employee Responsibilities and Rights

Although OSHA does not cite employees for violations of their responsibilities, each employee "shall comply with all occupational safety and health standards and all rules, regulations, and orders Issued under the Act" that are applicable.

Employee responsibilities and rights in states with their own occupational safety and health programs are generally the same as for workers in federal OSHA states.

Responsibilities

As an employee, you should:

- Read the OSHA poster at the jobsite.
- Comply with all applicable OSHA standards.
- Follow all employer safety and health rules and regulations, and wear or use prescribed protective equipment while engaged in work.
- Report hazardous conditions to the supervisor.
- Report any job-related injury or illness to the employer, and seek treatment promptly.
- Cooperate with the OSHA compliance officer conducting an inspection if he or she inquires about safety and health conditions in your workplace.
- Exercise your rights under the Act in a responsible manner.

11(c) Rights: Protection for Using Rights

Employees have a right to seek safety and health on the job without fear of punishment. That right is spelled out in Section 11(c) of the Act.

The law says employers shall not punish or discriminate against workers for exercising rights such as:

- Complaining to an employer, union, OSHA or any other government agency about job safety and health hazards;
- Filing safety or health grievances;
- Participating on a workplace safety and health committee or in union activities concerning job safety and health.
- Participating in OSHA inspections, conferences, hearings, or other OSHA-related activities.

If an employee is exercising these or other OSHA rights, the employer is

not allowed to discriminate against that worker in any way, such as through firing, demotion, taking away seniority or other earned benefits, transferring the worker to an undesirable job or shift, or threatening or harassing the worker.

If the employer has knowingly allowed the employee to do something in the past (such as leaving work early), he or she may be violating the law by punishing the worker for doing the same thing following a protest of hazardous conditions. If the employer knows that a number of workers are doing the same thing wrong, he or she cannot legally single out for punishment the worker who has taken part in safety and health activities.

Workers believing they have been punished for exercising safety and health rights must contact the nearest OSHA office within 30 days of the time they learn of the alleged discrimination. A union representative can file the 11(c) complaint for the worker.

The worker does not have to complete any forms. An OSHA staff member will complete the forms, asking what happened and who was involved.

Following a complaint, OSHA investigates. If an employee has been illegally punished for exercising safety and health rights, OSHA asks the employer to restore that worker's job earning and benefits. If necessary, and if it can prove discrimination, OSHA takes the employer to court. In such cases the worker does not pay any legal fees.

If a state agency has an OSHA-approved state program, employees may file their complaint with either federal OSHA or the state agency under its laws.

Section 405: Surface Transportation Assistance Act

Section 405 of the Surface Transportation Assistance Act (STAA) provides protection from reprisal by employers for truckers and certain other employees in the trucking industry involved in activity related to interstate commercial motor vehicle safety and health. Secretary of Labor's Order No. 9-83 (48 FR 35736, August 5, 1983) delegated to the Assistant Secretary of OSHA the authority to investigate and to issue findings and preliminary orders under Section 405.

Employees who believe they have been discriminated against for exercising their rights under Section 405 can file a complaint with OSHA within 180 days of the incident. The Secretary will then investigate the complaint and, within 60 days after it was filed, issue findings as to whether there is a reason to believe Section 405 has been violated.

If the Secretary finds that a complaint has merit, he/she also will issue an order requiring, where appropriate, abatement of the violation, reinstatement with back pay and related compensation, payment of compensatory

damages, and the payment of the employee's expenses in bringing the complaint. Either the employee or employer may object to the findings. If no objection is filed within 30 days, the finding and order are final. If a timely filed objection is made, however, the objecting party is entitled to a hearing on the objection before an Administrative Law Judge of the Department of Labor.

Within 120 days of the hearing, the Secretary will issue a final order. A party aggrieved by the final order may seek judicial review in a court of appeals within 60 days of the final order.

The following activities of truckers and certain employees involved in interstate commercial motor vehicle operation are protected under Section 405.

- Filing of safety or health complaints with OSHA or another regulatory agency relating to a violation of a commercial motor vehicle safety rule, regulation, standard, or order.
- Instituting or causing to be instituted any proceedings relating to a violation of a commercial motor vehicle safety rule, regulation, standard or order.
- Testifying in any such proceedings relating to the above items.
- Refusing to operate a vehicle when such operation constitutes a violation of any Federal rules, regulations, standards or orders applicable to commercial motor vehicle safety or health; or because of the employee's reasonable apprehension of serious injury to himself or the public due to the unsafe condition of the equipment.
- Complaints under Section 405 are filed in the same manner as complaints under 11(c). The filing period for Section 405 is 180 days from the alleged discrimination, rather than 30 days as under Section 11(c).

Other Rights

As an employee, you have the right to:

- Review copies of appropriate OSHA standards, rules, regulations and requirements that the employer should have available at the workplace.
- Request information from your employer on safety and health hazards in the area, on precautions that may be taken, and on procedures to be followed if an employee is involved in an accident or is exposed to toxic substances.
- Receive adequate training and information on workplace safety and health hazards.
- Request the OSHA area director to investigate if you believe hazardous conditions or violations of standards exist in your workplace.

- Have your name withheld from your employer, upon request to OSHA, if you file a written and signed complaint.
- Be advised of OSHA actions regarding your complaint and have an informal review, if requested, of any decision not to inspect or to issue a citation.
- Have your authorized employee representative accompany the OSHA compliance officer during the inspection tour.
- Respond to questions from the OSHA compliance officer, particularly if there is no authorized employee representative accompanying the compliance officer.
- Observe any monitoring or measuring of hazardous materials and have the right to see these records, and your medical records, as specified under the Act.
- Have your authorized representative, or yourself, review the Log and Summary of Occupational Injuries (OSHA No. 200) at a reasonable time and in a reasonable manner.
- Request a closing discussion with the compliance officer following an inspection.
- Submit a written request to NIOSH for information on whether any substance in your workplace has potentially toxic effects in the concentration being used and have your name withheld from your employer if you so request.
- Object to the abatement period set in the citation issued to your employer by writing to the OSHA area director within 15 working days of the issuance of the citation.
- Participate in hearings conducted by the Occupational Safety and Health Review Commission.
- Be notified by your employer if he or she applies for a variance from an OSHA standard, and testify at a variance hearing and appeal the final decision.
- Submit information or comment to OSHA on the issuance, modification, or revocation of OSHA standards and request a public

Keeping Up to Date on OSHA

Clearly, OSHA cannot succeed in its mission without fully informed employers and employees.

If you have questions about OSHA, contact your nearest OSHA office. Also see pages 5 and 6 of this booklet for information on obtaining OSHA rules and regulations by subscription to the Federal Register or by subscription to the OSHA Subscription Service.

OSHA publications and fact sheets are issued to detail various facets of OSHA policy and regulations. Your OSHA regional or area office can provide you with a listing of current materials (OSHA Publications & Audiovisual Programs, OSHA 2019), or write: OSHA Publications Office, 200 Constitution Avenue, N.W., Room N-3101, Washington, DC 20210.

You are encouraged to learn all you can about OSHA, its aims, policies, programs and practices, because you are the reason for them. The more you know about OSHA, the better you can contribute to its pursuit of safe and healthful working conditions for all Americans.

States with Approved Plans

States administering their own occupational safety and health programs through plans approved under section 18(b) of the Occupational Safety and Health Act of 1970 must adopt standards and enforce requirements that are at least as effective as federal requirements.

There are currently 25 state plan states: 23 cover the private and public (state and local government) sectors and 2 cover the public sector only.

COMMISSIONER
Alaska Department of Labor
P.O. Box 21149
Juneau, AL 99802-1149
(907) 465-2700

DIRECTOR
Industrial Commission of Arizona
800 W. Washington
Phoenix, AZ 85007
(602) 542-5795

DIRECTOR
California Department of
Industrial Relations
395 Oyster Point Boulevard
3rd Floor, Wing C
San Francisco, CA 94080
(415) 737-2960

COMMISSIONER
Connecticut Department of Labor
200 Folly Brook Boulevard
Wethersfield, CT 06109
(203) 566-5123

DIRECTOR
Hawaii Department of Labor and
Industrial Relations
830 Punchbowl Street
Honolulu, HI 96813
(808) 548-3150

COMMISSIONER
Indiana Department of Labor
1013 State Office Building
100 North Senate Avenue
Indianapolis, IN 46204-2287
(317) 232-2665

COMMISSIONER
Iowa Division of Labor Services
1000 E. Grand Avenue
Des Moines, IA 50319
(515) 281-3447

SECRETARY
Kentucky Labor Cabinet
U.S. Highway 127 South
Frankfort, KY 40601
(502) 564-3070

COMMISSIONER
Maryland Division of Labor and
Industry
Department of Licensing and
Regulation

501 St. Paul Place, 15th Floor
Baltimore, MD 21202-2272
(301) 333-4179

DIRECTOR
Michigan Department of Labor
309 N. Washington Square
P.O. Box 30015
Lansing, MI 48909
(517) 373-9600

DIRECTOR
Michigan Department of Public Health
3423 North Logan Street
Box 30195
Lansing, Mi 48909
(517) 335-8022

COMMISSIONER
Minnesota Department of Labor and Industry
443 Lafayette Road
St. Paul, MN 55155
(612) 296-2342

DIRECTOR
Nevada Department of Industrial Relations
Division of Occupational Safety and Health
Capitol Complex
1370 S. Curry Street
Carson City, NV 89710
(702) 885-5240

DIRECTOR
New Mexico Environmental Improvement Division
Health and Environmental Department
1190 St. Francis Drive - N2200
Santa Fe, NM 87503-0968
(505) 827-2850

COMMISSIONER
New York Department of Labor
One Main Street
Brooklyn, NY 11201
(518) 457-3518

COMMISSIONER
North Carolina Department of Labor
4 West Edenton Street
Raleigh, NC 27603
(919) 733-7166

ADMINISTRATOR
Oregon Occupational Safety and Health Division
Oregon Department of Insurance and Finance, Room 160
21 Labor and Industries Building
Salem, OR 97310
(503) 378-3304

SECRETARY
Puerto Rico Department of Labor and Human Resources
Prudencio Rivera Martinez Building
505 Munoz Rivera Avenue
Hato Rey, PR 00918
(809) 854-2119-22

COMMISSIONER
South Carolina Department of Labor
3600 Forest Drive
P.O. Box 11329
Columbia, SC 29211-1329
(803) 734-9594

COMMISSIONER
Tennessee Department of Labor
Attention: Robert Taylor
501 Union Building
Suite "A" - 2nd Floor
Nashville, TN 37219
(615) 741-2582

ADMINISTRATOR
Utah Occupational Safety and Health
160 East 300 South
P. O. Box 5800
Salt Lake City, UT 84110-5800
(801) 530-6900

COMMISSIONER
Vermont Department of Labor
and Industry
120 State Street
Montpelier, VT 05602
(802) 828-2765

COMMISSIONER
Virgin Islands of Labor
Box 890
Christiansted
St. Croix, VI 00820
(809) 773-1994

COMMISSIONER
Virginia Department of Labor
and Industry
P. O. Box 12064
Richmond, VA 23241-0064
(804) 786-2376

DIRECTOR
Washington Department of Labor
and Industries
General Administration Building
Room 334-AX-31
Olympia, WA 98504-0631
(206) 753-6307

DIRECTOR
Wyoming Occupational Health
and Safety
Herschler Building, 2nd Floor East
122 E. 25 Street
Cheyenne, WY 82002
(307) 777-7786 777-7787

Approved state plans are required to provide standards and enforcement programs, as well as voluntary compliance activities, that must be at least as effective as the federal standards.
Note: Connecticut and New York plans cover public employees only.

State Consultation Project Directory

Consultation programs provide free services to employers who request help in identifying and correcting specific hazards, want to improve their safety and health programs, and/or need further assistance in training and education. Funded by OSHA and delivered by well-trained professional staff of state governments, consultation services are comprehensive, and include an appraisal of all workplace hazards, practices, and job safety and health programs; conferences and agreements with management; assistance in implementing recommendations; and a follow-up appraisal to ensure that any required corrections are made.

For more information on consultation programs, contact the appropriate office in your state listed below.

State	Telephone
Alabama	(205) 348-3033
Alaska	(907) 264-2599
Arizona	(602) 255-5795
Arkansas	(501) 682-4522
California	(415) 557-2870
Colorado	(303) 491-6151
Connecticut	(203) 566-4550
Delaware	(302) 571-3908
District of Columbia	(202) 576-6339
Florida	(904) 488-3044
Georgia	(404) 894-8274
Guam 9-011	(671) 646-9246
Hawaii	(808) 548-7510
Idaho	(208) 385-3283
Illinois	(312) 917-2339
Indiana	(317) 232-2688
Iowa	(515) 281-5352
Kansas	(913) 296-4386
Kentucky	(502) 564-6895
Louisiana	(504) 342-9601
Maine	(207) 289-6460
Maryland	(301) 333-4218
Massachusetts	(617) 727-3463
Michigan	(517) 335-8250(H)
	(517) 322-1814(S)
Minnesota	(612) 297-2393
Mississippi	(601) 987-3981
Missouri	(314) 751-3403
Montana	(406) 444-6401
Nebraska	(402) 471-4717
Nevada	(702) 789-0546
New Hampshire	(603) 271-3170
New Jersey	(609) 984-3507
New Mexico	(505) 827-2885
New York	(518) 457-5468
North Carolina	(919) 733-3949
North Dakota	(701) 224-2348

Ohio	(614) 644-2631
Oklahoma	(405) 528-1500
Oregon	(503) 378-3272
Pennsylvania	(800) 382-1241
	(Toll-free in State)
	(412) 357-2561
Puerto Rico	(809) 754-2134-2171
Rhode Island	(401) 277-2438
South Carolina	(803) 734-9599
South Dakota	(605) 688-4101
Tennessee	(615) 741-7036
Texas	(512) 458-7254
Utah	(801) 530-6868
Vermont	(802) 828-2765
Virginia	(804) 367-1986
Virgin Islands	(809) 772-1315
Washington	(206) 586-0961
West Virginia	(304) 348-7890
Wisconsin	(608) 266-8579(H)
	(414) 521-5063(S)
Wyoming	(307) 777-7786

H - Health
S - Safety

U. S. Department of Labor
Occupational Safety and Health Administration
Regional Offices

Region I
(CT,*, MA, ME, NH, RI, VT*)
133 Portland Street
1st Floor
Boston, MA 02114
Telephone: (617) 565-7164

Region II
(NJ, NY,* PR,* VI*)
201 Varick Street
Room 670
New York, NY 10014
Telephone: (212) 337-2378

Region III
(DC, DE, MD,* PA, VA,* WV)
Gateway Building, Suite 2100
3535 Market Street
Philadelphia, PA 19104
Telephone: (215) 596-1201

Region IV
(AL, FL, GA, KY,* MS, NC,* SC,* TN*)
Peachtree Street N.E.
Suite 587
Atlanta, GA 30367
Telephone: (404) 347-3573

Region V
(IL, IN,* MI,* MN,* OH, WI)
230 South Dearborn Street
Room 3244
Chicago, IL 60604
Telephone: (312) 353-2220

Region VI
(AR, LA, NM,* OK, TX)
525 Griffin Street
Room 602
Dallas, TX 75202
Telephone: (214) 767-4731

Region VII
(IA,* KS, MO, NE)
911 Walnut Street
Kansas City, MO 64106
Telephone: (816) 426-5861

Region VIII
(CO, MT, ND, SD, UT,* WY*)
Federal Building, Room 1576
1961 Stout Street
Denver, CO 80294
Telephone: (303) 844-3061

Region IX
(American Samoa, AZ,* CA,* Guam, HI,* NV,* Trust Territories of the Pacific)
71 Stevenson Street
Room 415
San Francisco, CA 94105
Telephone: (415) 744-6670

Region X
(AK,* ID, OR,* WA*)
1111 Third Avenue
Suite 715
Seattle, WA 98174
Telephone: (206) 442-5930

*These states and territories operate their own OSHA-approved job safety and health plans (Connecticut and New York plans cover public employees only). States with approved plans must have a standard that is identical to, or at least as effective as, the federal standard.

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